



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/852,225	05/09/2001	Mitsuru Akaike	M1596-226	4231

7278 7590 11/25/2002

DARBY & DARBY P.C.
P. O. BOX 5257
NEW YORK, NY 10150-5257

EXAMINER

MORRISON, NASCHICA SANDERS

ART UNIT

PAPER NUMBER

3632

DATE MAILED: 11/25/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/852,225	AKAIKE, MITSURU <i>P</i>	
	Examiner	Art Unit	
	Naschica S Morrison	3632	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 09 May 2001.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.
- 4) Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-10 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Disposition of Claims

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 09 May 2001 is/are: a) accepted or b) objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) The proposed drawing correction filed on _____ is: a) approved b) disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. _____.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) The translation of the foreign language provisional application has been received.
- 15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
- 4) Interview Summary (PTO-413) Paper No(s). _____.
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: _____.

DETAILED ACTION

This is the second Office Action for serial number 09/852,225, Stopper Device and Telescopic Unit, filed on May 9, 2001. Claims 1-10 are pending.

Specification

The disclosure is objected to because of the following informalities: on page 2, line 3, delete "is" after "invention" and on line 10, insert --,-- after "tubular member"; on page 10, line 7 "severs" should be --serves--; on page 12, line 4 insert --that-- after "shape as". Appropriate correction is required.

Drawings

Figures 5, 6, and 11 should be designated by a legend such as --Prior Art-- because only that which is old is illustrated. See MPEP § 608.02(g). A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Claim Objections

Claims 3 and 4 are objected to because of the following informalities: on line 5 "cause" should be --causing--. Appropriate correction is required.

Art Unit: 3632

Claim 8 is objected to because of the following informalities: on line 11, "stopper support member" should be --stopper supporting member--.

Applicant is advised that should claim 3 be found allowable, claim 4 will be objected to under 37 CFR 1.75 as being a substantial duplicate thereof. When two claims in an application are duplicates or else are so close in content that they both cover the same thing, despite a slight difference in wording, it is proper after allowing one claim to object to the other as being a substantial duplicate of the allowed claim.

See MPEP § 706.03(k).

Applicant is advised that should claim 5 be found allowable, claim 6 will be objected to under 37 CFR 1.75 as being a substantial duplicate thereof. When two claims in an application are duplicates or else are so close in content that they both cover the same thing, despite a slight difference in wording, it is proper after allowing one claim to object to the other as being a substantial duplicate of the allowed claim.

See MPEP § 706.03(k).

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 5 and 6 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to

Art Unit: 3632

make and/or use the invention. Claims 5 and 6 recite the stopper supporting hole being formed at about the midpoint along the axial length of the stopper supporting member. However, based on the specification and drawings, the stopper supporting hole is not formed at about the midpoint along the axial length of *the stopper supporting member* (3), but instead is formed at about the midpoint of the axial length of the *overlapping portions* of the first and second tubular members (21, 22) when the second tubular member (22) is at its fullest extension length with regard to the first tubular member (21). Correction/clarification is required.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Admitted Prior Art of Figs. 5, 6, and 11 (APA) in view of U.S. Patent 2,282,295 to Olson. With regards to claims 1-10, APA discloses all of the limitations of the claims except the stoppers (2) each having a first diameter at the first end being greater than a second diameter of the second end (i.e. tapered) and the first and second ends of abutting stoppers having substantially the same outer dimensions to form a continuously tapered shape. Olson teaches a tripod leg assembly including a stopper (36) having a tapered shape with a diameter gradually increasing from the second end (adjacent 40) to the

Art Unit: 3632

first end (adjacent 37). It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the stoppers (2) to taper from top to bottom as an alternative design as disclosed by Olson and since it has been held that a change in the shape of a prior art device is a design consideration within the skill of the art. In re Dailey, 357 F.2d 669, 149 USPQ 47 (CCPA 1966).

Conclusion

The prior art made of record and not relied upon is considered pertinent to Applicant's disclosure:

713794 to Ostermann; 2817548 to Uthemann; 2841425 to Oeters; 2927757 to Omohundro et al; 3589757 to Mooney; 3856253 to Seebinger; 4324477 to Miyazaki; 4648697 to Kawazoe; 4761092 and D280908 to Nakatani; 4932622 and D327083 to Hayakawa; 4029279 to Nakatani; D333479 to Chun-Mao; 5267712 to Shen; 5341185 to Nakatani; 5449104 and 5617980 to Parsons et al; 5564661 to Gershon; 5617980 to Parsons et al; 6142699 to Pao; 6322027 to Hsu; DE 3441225 to Groschupp

The above references disclose telescopic assemblies relevant to Applicant's invention.

Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Naschica S. Morrison, whose telephone number is (703) 305-0228. If attempts to reach the examiner are unsuccessful, the examiner's supervisor, Leslie Braun can be reached at 703-308-2156. The fax machine telephone number for the Technology Center is (703) 872-9326 (formal amendments) or (703) 872-9327 (After Final amendments).

Any inquiry of a general nature or relating to the status of this Application should be directed to the Technology Center receptionist at (703) 872-9325.


Naschica S. Morrison
Patent Examiner - Art Unit 3632
11/15/02


KIMBERLY WOOD
PRIMARY EXAMINER